

FIRST REGULAR SESSION

SENATE BILL NO. 272

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GROSS.

Read 1st time February 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

0880S.02I

AN ACT

To repeal sections 137.073 and 313.820, RSMo, and to enact in lieu thereof two new sections relating to gaming boat admission fee revenue.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 137.073 and 313.820, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 137.073 and 313.820, to read as follows:

137.073. 1. As used in this section, the following terms mean:

(1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;

(2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;

(3) "Tax rate ceiling", a tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

(4) "Tax revenue", when referring to the previous year, means the actual receipts from ad valorem levies on all classes of property, including state-assessed property, in the immediately preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not collected in the fiscal year and plus an additional allowance for the revenue which would have been collected from property which was annexed by such political

subdivision but which was not previously used in determining tax revenue pursuant to this section. The term "tax revenue" shall not include any receipts from ad valorem levies on any property of a railroad corporation or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by the assessor of a county or city in the previous year but are assessed by the state tax commission in the current year. All school districts and those counties levying sales taxes pursuant to chapter 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and section 164.013, RSMo, **or as excess home dock city or county fees as provided in subsection 3 of section 313.820, RSMo**, in the immediately preceding fiscal year but not including any amount calculated to adjust for prior years. For purposes of political subdivisions which were authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the revenues equal to the amount that would have been available if the voluntary rate reduction had not been made.

2. Whenever changes in assessed valuation are entered in the assessor's books for any personal property, in the aggregate, or for any subclass of real property as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each political subdivision wholly or partially within the county or St. Louis City of the change in valuation of each subclass of real property, individually, and personal property, in the aggregate, exclusive of new construction and improvements. All political subdivisions shall immediately revise the applicable rates of levy for each purpose for each subclass of real property, individually, and personal property, in the aggregate, for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements, substantially the same amount of tax revenue as was produced in the previous year for each subclass of real property, individually, and personal property, in the aggregate, except that the rate may not exceed the greater of the rate in effect in the 1984 tax year or the most recent voter-approved rate. Such tax revenue shall not include any receipts from ad valorem levies on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property. Where the taxing authority is a school district for the purposes of revising the applicable rates of levy for each subclass of real property, the tax revenues from state-assessed railroad and utility property shall be apportioned and attributed to each subclass of real property based on the percentage of the total assessed valuation of the county that each subclass of real property represents in the current taxable year. As provided in section 22 of article X of the constitution, a political subdivision may also revise each levy to allow for inflationary assessment growth occurring within the

political subdivision. The inflationary growth factor for any such subclass of real property or personal property shall be limited to the actual assessment growth in such subclass or class, exclusive of new construction and improvements, and exclusive of the assessed value on any real property which was assessed by the assessor of a county or city in the current year in a different subclass of real property, but not to exceed the consumer price index or five percent, whichever is lower. Should the tax revenue of a political subdivision from the various tax rates determined in this subsection be different than the tax revenue that would have been determined from a single tax rate as calculated pursuant to the method of calculation in this subsection prior to January 1, 2003, then the political subdivision shall revise the tax rates of those subclasses of real property, individually, and/or personal property, in the aggregate, in which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, based on the relative assessed valuation of the class or subclasses of property experiencing a tax rate reduction. Such revision in the tax rates of each class or subclass shall be made by computing the percentage of current year adjusted assessed valuation of each class or subclass with a tax rate reduction to the total current year adjusted assessed valuation of the class or subclasses with a tax rate reduction, multiplying the resulting percentages by the revenue difference between the single rate calculation and the calculations pursuant to this subsection and dividing by the respective adjusted current year assessed valuation of each class or subclass to determine the adjustment to the rate to be levied upon each class or subclass of property. The adjustment computed herein shall be multiplied by one hundred, rounded to four decimals in the manner provided in this subsection, and added to the initial rate computed for each class or subclass of property. Notwithstanding any provision of this subsection to the contrary, no revision to the rate of levy for personal property shall cause such levy to increase over the levy for personal property from the prior year.

3. (1) Where the taxing authority is a school district, it shall be required to revise the rates of levy to the extent necessary to produce from all taxable property, including state-assessed railroad and utility property, which shall be separately estimated in addition to other data required in complying with section 164.011, RSMo, substantially the amount of tax revenue permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be adjusted to offset such district's reduction in the apportionment of state school moneys due to its reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling pursuant to this section, requiring the estimating of effects of state-assessed railroad and utility valuation or loss of state aid, discovers that the estimates used result in receipt of excess revenues, which would have required a lower rate if the actual information had been known, the school district shall reduce the tax rate ceiling in the

following year to compensate for the excess receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

(2) For any political subdivision which experiences a reduction in the amount of assessed valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of any assessed valuation:

(a) Such political subdivision may revise the tax rate ceiling for each purpose it levies taxes to compensate for the reduction in assessed value occurring after the political subdivision calculated the tax rate ceiling for the particular subclass of real property or for personal property, in the aggregate, in the prior year. Such revision by the political subdivision shall be made at the time of the next calculation of the tax rate for the particular subclass of real property or for personal property, in the aggregate, after the reduction in assessed valuation has been determined and shall be calculated in a manner that results in the revised tax rate ceiling being the same as it would have been had the corrected or finalized assessment been available at the time of the prior calculation;

(b) In addition, for up to three years following the determination of the reduction in assessed valuation as a result of circumstances defined in this subdivision, such political subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive for the three-year period preceding such determination.

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. Notwithstanding any opt-out implemented pursuant to subsection 15 of section 137.115, the assessor shall certify the amount of new construction and improvements and the amount of assessed value on any real property which was assessed by the assessor of a

county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property separately for each of the three subclasses of real property for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest twelve-month basis available on June first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state assessed property.

(2) Each political subdivision required to revise rates of levy pursuant to this section or section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized to levy and, in establishing each tax rate, shall consider each provision for tax rate revision provided in this section and section 22 of article X of the Constitution of Missouri, separately and without regard to annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo. Each political subdivision shall set each tax rate it is authorized to levy using the calculation that produces the lowest tax rate ceiling. It is further the intent of the general assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri, that the provisions of such section be applicable to tax rate revisions mandated pursuant to section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in subsequent years, enforcement provisions, and other provisions not in conflict with section 22 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo, shall be applied to the tax rate as established pursuant to this section and section 22 of article X of the Constitution of Missouri, unless otherwise provided by law.

5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section shall not be increased unless approved by a vote of the people. Approval of the higher tax rate shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval by more than a simple majority pursuant to any provision of law or the constitution, the tax rate increase must receive approval by at least the majority required.

(2) When voters approve an increase in the tax rate, the amount of the increase shall be added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does not exceed any maximum rate prescribed by law. If a ballot question presents a

stated tax rate for approval rather than describing the amount of increase in the question, the stated tax rate approved shall be the current tax rate ceiling. The increased tax rate ceiling as approved may be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate.

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling and may increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval.

6. (1) For the purposes of calculating state aid for public schools pursuant to section 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting quotient by a factor of one-hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151, RSMo, and for apportioning the tax rate by purpose.

(2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of the county commission in the county or counties where the tax rate applies of its tax rate ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a fraction equal to the nearest one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then one/one-hundredth of a cent. If a taxing authority shall round to one/one-hundredth of a cent, it shall round up a fraction greater than or equal to five/one-thousandth of one cent to the next higher one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next higher one-tenth of a cent. Any taxing authority levying a property tax rate shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate complies with Missouri law. All forms for the calculation of rates pursuant to this section shall be promulgated as a rule and shall not be incorporated by reference. Within thirty days after the effective date of this act, the state auditor shall promulgate rules for any and all forms for the calculation of rates pursuant to this section which do not currently exist in rule form or that have been incorporated by reference. In addition, each taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for annual debt service requirements will be prima facie valid if, after making the payment

for which the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the following year's payments. The county clerk shall keep on file and available for public inspection all such information for a period of three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor. The state auditor shall, within fifteen days of the date of receipt, examine such information and return to the county clerk his or her findings as to compliance of the tax rate ceiling with this section and as to compliance of any proposed tax rate for debt service with Missouri law. If the state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor may request a taxing authority to submit documentation supporting such taxing authority's proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings to the taxing authority and shall file a copy of the findings with the information received from the taxing authority. The taxing authority shall have fifteen days from the date of receipt from the county clerk of the state auditor's findings and any request for supporting documentation to accept or reject in writing the rate change certified by the state auditor and to submit all requested information to the state auditor. A copy of the taxing authority's acceptance or rejection and any information submitted to the state auditor shall also be mailed to the county clerk. If a taxing authority rejects a rate change certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

7. No tax rate shall be extended on the tax rolls by the county clerk unless the political subdivision has complied with the foregoing provisions of this section.

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced

and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

9. If in any action, including a class action, the court issues an order requiring a taxing authority to revise the tax rates as provided in this section or enjoins a taxing authority from the collection of a tax because of its failure to revise the rate of levy as provided in this section, any taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her taxes in part, whether or not the taxes are paid under protest as provided in section 139.031, RSMo. The part of the taxes paid erroneously is the difference in the amount produced by the original levy and the amount produced by the revised levy. The township or county collector of taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid. The taxing authority refusing to revise the rate of levy as provided in this section shall make available to the collector all funds necessary to make refunds pursuant to this subsection. No taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require a taxing authority to refund any tax erroneously paid prior to or during the third tax year preceding the current tax year.

10. A taxing authority, including but not limited to a township, county collector, or collector of taxes, responsible for determining and collecting the amount of residential real property tax levied in its jurisdiction, shall report such amount of tax collected by December thirty-first of each year such property is assessed to the state tax commission. The state tax commission shall compile the tax data by county or taxing jurisdiction and submit a report to the general assembly no later than January thirty-first of the following year.

11. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held

unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

313.820. 1. An excursion boat licensee shall pay to the commission an admission fee of two dollars for each person embarking on an excursion gambling boat with a ticket of admission. One dollar of such fee shall be deposited to the credit of the gaming commission fund as authorized pursuant to section 313.835, and one dollar of such fee shall not be considered state funds and shall be paid to the home dock city or county. **Effective fiscal year 2007 and each fiscal year thereafter, the amount of revenue derived from admission fees paid to a home dock city or county shall not exceed the percentage of gross revenue realized by the home dock city or county attributable to such admission fees for fiscal year 2006. Effective fiscal year 2007 and each fiscal year thereafter, all revenue derived by a home dock city or county from such admission fees shall be used exclusively for capital expenditures.** Subject to appropriation, one cent of such fee deposited to the credit of the gaming commission fund may be deposited to the credit of the compulsive gamblers fund created pursuant to the provisions of section 313.842. Nothing in this section shall preclude any licensee from charging any amount deemed necessary for a ticket of admission to any person embarking on an excursion gambling boat. If tickets are issued which are good for more than one excursion, the admission fee shall be paid to the commission for each person using the ticket on each excursion that the ticket is used. If free passes or complimentary admission tickets are issued, the excursion boat licensee shall pay to the commission the same fee upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate; however, the excursion boat licensee may issue fee-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat. The issuance of fee-free passes is subject to the rules of the commission, and a list of all persons to whom the fee-free passes are issued shall be filed with the commission.

2. All licensees are subject to all income taxes, sales taxes, earnings taxes, use taxes, property taxes or any other tax or fee now or hereafter lawfully levied by any political subdivision; however, no other license tax, permit tax, occupation tax, excursion fee, or taxes or fees shall be imposed, levied or assessed exclusively upon licensees by a political subdivision. All state taxes not connected directly to gambling games shall be collected by the department of revenue. Notwithstanding the provisions of section 32.057, RSMo, to the contrary, the department of revenue may furnish and the commission may receive tax information to determine if applicants or licensees are complying with the tax laws of this state; however, any tax information acquired by the commission shall not become public record and shall be used exclusively for commission business.

3. After fiscal year 2006, in any fiscal year in which a home dock city or county collects an amount over the limitation on revenue derived from admission

fees provided in subsection 1 of this section, such revenue shall be treated as if it were sales tax revenue within the meaning of section 67.505, RSMo, provided that the home dock city or county shall reduce its total property tax levy, as provided in subdivision (6) of subsection 3 of section 67.505, RSMo.

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